

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ACCESS 4 ALL, INC., a Florida Not-For-Profit  
Corporation, and NELSON M. STERN,  
Individually,

Docket No.: 1:07-cv-2923  
(LBS) (FM)

Plaintiffs,

-against-

Judge Leonard B. Sand  
Magistrate Judge Frank Maas

ULSTER HEIGHTS PROPERTIES, INC.,  
a New York Corporation,

Defendant.  
-----X

**MOTION TO STAY PROCEEDINGS PENDING REMEDIATION**

PLEASE TAKE NOTICE that on August 14 at 2:15 P.M., Defendant Ulster Heights Properties, Inc. ("Ulster Heights") by and through its counsel, will move before the Honorable Leonard B. Sand, United States District Court Judge, in the United States District Court for the Southern District of New York, located at 500 Pearl Street, Room 1650, Courtroom 15A, New York, New York 10007, or as soon thereafter as counsel can be heard, for an Order staying the instant action for a period of ninety (90) days to allow the defendant to perform remediation work at the premises without the imposition of unnecessary legal fees.

PLEASE TAKE FURTHER NOTICE that any opposition to this motion must be served upon Ulster Heights no later than 12:00 P.M., Monday, August 11, 2008.

Defendant, Ulster Heights Properties, Inc. ("Ulster Heights") by and through its undersigned counsel, files this Motion to Stay Proceedings Pending Remediation, and asks this Court to enter an Order staying these proceedings for a period of ninety (90) days.

### **Procedural History**

1. Plaintiffs filed this lawsuit on or about April 12, 2007. In their Complaint, the Plaintiffs allege that Ulster Heights discriminated against them "by denying them access to" Prel Plaza, in violation of the Americans with Disabilities Act (the "ADA"). Plaintiffs have asked the Court to enter an Order directing Ulster Heights to make Prel Plaza accessible and useable to individuals with disabilities, in compliance with the ADA. Plaintiffs have also asked the Court to award reasonable attorneys' fees, costs, and other litigation expenses. A copy of the Amended Complaint is annexed hereto as Exhibit "1".

### **The Litigious History of Plaintiffs**

2. Through a search of the records on the Pacer system, Ulster Heights discovered that Plaintiffs have filed hundreds of lawsuits throughout the country, moving from region to region, alleging violations of the ADA.

3. To date, Plaintiff Access 4 All, Inc. ("Access 4 All") has filed in excess of 500 cases nationwide including 73 in New York, all since March of 2004. Copies of the Pacer searches concerning Access 4 All are annexed hereto as Exhibit "2".

4. Since the beginning of 2003, Nelson Stern has filed approximately 79 lawsuits in New York, New Jersey, Connecticut and California. Presumably, the law firm of Fuller, Fuller & Associates represented Mr. Stern in each of those actions. Copies of the Pacer searches concerning Nelson M. Stern are annexed hereto as Exhibit "3".

5. This action was commenced by Plaintiffs without any prior notification to Ulster Heights of any alleged ADA violations or their intent to proceed directly to litigation. Accordingly, Ulster Heights was never given the opportunity to identify or, if necessary,

eliminate any barriers that may exist at Prel Plaza without the impending threat of an award for attorneys' fees and costs.

6. The predatory practices by Plaintiff's attorneys, specifically Lawrence A. Fuller, have been the subject of admonishment in at least three jurisdictions (Ohio, District Court for the Southern District of Florida and the District Court of the District of Columbia). Indeed, the Southern District of Florida sanctioned Mr. Fuller the sum of \$43,323.90, after his purported quadriplegic plaintiff walked into a deposition. Copies of those decisions and orders are annexed hereto as Exhibit "4".

#### **A Stay May Moot the Case, Saving Judicial Resources**

7. In their Complaint, the Plaintiffs only identified a few specific conditions that allegedly do not comply with the ADA Accessibility Guidelines.

8. Defendant's Answer, which was filed on August 1, 2008 (30 days after its discovery of the action), includes several defenses concerning standing, lack of authority by Plaintiff to bring this action, and lack of subject matter jurisdiction of this Court. A copy of the Verified Answer is annexed hereto as Exhibit "5". Defendant expressly reserves and does not waive those defenses. This motion is appropriate as it does not take any affirmative action, but rather allows time to rectify any purported violations and perhaps obviate any need for this action.

9. Shortly after Ulster Heights was served with the Complaint, Ulster Heights sought out and retained a professional engineer to perform a survey of Prel Plaza to identify which, if any, of the alleged conditions violate the ADA Accessibility Guidelines, to the extent that such barriers exist.

10. Ulster Heights intends to remove any barriers identified by its engineer. Ulster Heights believes that any barriers that may be identified can be remedied quickly without the Plaintiffs' attorneys generating unnecessary attorneys' fees and costs.


11. If this Court stays the proceedings, Ulster Heights can complete the remediation and conserve judicial resources and attorneys' fees and costs expended in this matter.

12. A motion to stay was granted on three separate cases in the U.S. District Court for the Middle District of Florida similar to the instant action, where this type of serial plaintiff commenced actions for purported ADA violations. Copies of those orders are annexed hereto as Exhibit "6".

13. In order to prevent this case from simply becoming an income generating device for the Plaintiffs' attorneys, Ulster Heights asks this Court to enter an order staying the proceedings for ninety (90) days. During that ninety-day period, Ulster Heights will remove any and all barriers identified in the engineer's report to be produced within 30 days. During the ninety-day stay, Ulster Heights intends to: (1) prepare a relevant prioritized list of barriers at Prel Plaza; (2) initiate and complete the modifications to Prel Plaza to eliminate readily achievable barriers; (3) provide the Court with a list of the barriers that will be removed and the time period in which the project will be completed.

WHEREFORE, the Defendant, Ulster Heights Properties, Inc. asks this Court to enter an Order staying the proceedings for ninety (90) days, or some other reasonable time, and any other relief this Court deems proper.

Dated: Orangeburg, New York  
August 4, 2008

  
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**Exhibit “1”**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ACCESS 4 ALL, INC., a Florida Not-For-Profit Corporation, and NELSON M. STERN, Individually,	:	
	:	
Plaintiffs,	:	Case No. 1:07-cv-2923
	:	
v.	:	Judge Leonard B. Sand
	:	Magistrate Judge Frank Maas
ABA HEIMAN and JERRY HEIMAN, individuals, and ULSTER HEIGHTS PROPERTIES, INC., a New York Corporation,	:	
	:	
Defendants.	:	

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**AMENDED COMPLAINT**  
(Injunctive Relief Demanded)

Plaintiffs, ACCESS 4 ALL, INC., a Florida Not-For-Profit Corporation, and NELSON M. STERN, Individually, on their behalf and on behalf of all other individuals similarly situated, (sometimes referred to as "Plaintiff" or "Plaintiffs"), hereby sue the Defendants, ABA HEIMAN and JERRY HEIMAN, individuals, and ULSTER HEIGHTS PROPERTIES, INC., a New York Corporation (sometimes referred to as "Defendants"), for Injunctive Relief, and attorney's fees, litigation expenses, and costs pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. ("ADA").

1. Plaintiff, Nelson M. Stern, is an individual residing in New York, NY, in the County of New York.
2. Plaintiff, ACCESS 4 ALL, INC., is a non-profit corporation formed under the laws of the State of Florida. ACCESS 4 ALL, INC. maintains its principal office at 3200 N. Palm Aire Dr., #505, Pompano Beach, FL 33069, in the County of Broward.

3. Defendants's property, Prel Plaza, is located at 60 Dutch Hill Road, Orangeburg, NY, in Rockland County.
4. Venue is properly located in the Southern District of New York because venue lies in the judicial district of the property situs. The Defendants's property is located in and does business within this judicial district.
5. Pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, this Court has been given original jurisdiction over actions which arise from the Defendants's violations of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. See also 28 U.S.C. § 2201 and § 2202.
6. Plaintiff Nelson M. Stern is a New York resident, is sui juris, and qualifies as an individual with disabilities as defined by the ADA. Nelson M. Stern has visited the property which forms the basis of this lawsuit and plans to return to the property to avail himself of the goods and services offered to the public at the property. The Plaintiff has encountered architectural barriers at the subject property. The barriers to access at the property have endangered his safety. The Plaintiff is also a member of the Plaintiff organization, ACCESS 4 ALL, INC., discussed below in paragraph 7.
7. Plaintiff ACCESS 4 ALL, INC., is a non-profit Florida corporation. Members of this organization include individuals with disabilities as defined by the ADA, and are representative of a cross-section of the disabilities to be protected from discrimination by the ADA. The purpose of this organization is to represent the interest of its members by assuring places of public accommodation are accessible to and usable by the disabled and that its members are not discriminated against because of their disabilities. ACCESS 4 ALL, INC.



and its members have suffered and will continue to suffer direct and indirect injury as a result of the Defendants's discrimination until the Defendants is compelled to comply with the requirements of the ADA. One or more of its members has suffered an injury that would allow it to bring suit in its own right. ACCESS 4 ALL, INC. has also been discriminated against because of its association with its disabled members and their claims.

8. Defendants owns, leases, leases to, or operates a place of public accommodation as defined by the ADA and the regulations implementing the ADA, 28 CFR 36.201(a) and 36.104. Defendants is responsible for complying with the obligations of the ADA. The place of public accommodation that the Defendants owns, operates, leases or leases to is known as Prel Plaza, and is located at 60 Dutch Hill Road, Orangeburg, NY.
9. ACCESS 4 ALL, INC. and Nelson M. Stern have a realistic, credible, existing and continuing threat of discrimination from the Defendants's non-compliance with the ADA with respect to this property as described but not necessarily limited to the allegations in paragraph 11 of this complaint. Plaintiffs have reasonable grounds to believe that they will continue to be subjected to discrimination in violation of the ADA by the Defendants. Nelson M. Stern desires to visit Prel Plaza not only to avail himself of the goods and services available at the property but to assure himself that this property is in compliance with the ADA so that he and others similarly situated will have full and equal enjoyment of the property without fear of discrimination.
10. The Defendants has discriminated against the individual Plaintiff and members of the corporate Plaintiff organization by denying them access to, and full and equal enjoyment of, the goods, services, facilities, privileges, advantages and/or accommodations of the

buildings, as prohibited by 42 U.S.C. § 12182 et seq.

11. The Defendants has discriminated, and is continuing to discriminate, against the Plaintiff in violation of the ADA by failing to, inter alia, have accessible facilities by January 26, 1992 (or January 26, 1993, if Defendants has 10 or fewer employees and gross receipts of \$500,000 or less). A preliminary inspection of Prel Plaza has shown that violations exist. These violations include, but are not limited to:

- a. An accessible route within the boundary of the site is not provide from accessible parking, and public streets or sidewalks to the accessible entrance they serve. This is in violation of sections 4.3.2 and 4.6.3 of the ADAAG.
- b. The accessible route has a change in level. This is in violation of 4.3.8 of the ADAAG.
- c. A curb ramp is not provided wherever an accessible route crosses a curb. This is in violation of section 4.7.1 of the ADAAG.
- d. The site does not provide the appropriate number of accessible parking spaces. This is in violation of section 4.6.1 of the ADAAG.
- e. The stairway does not provide appropriate handrails. This is in violation of section 4.9.4 of the ADAAG.
- f. For one or more stores including, but not limited to Yogi S Café, an accessible route to the toilet room in not provided. This is in violation of section 4.3.3 of the ADAAG.
- g. For one or more stores including, but not limited to Yogi S Cafe, an accessible toilet room is not provided. This is in violation of section 4.22.1 of the ADAAG.
- h. For one or more stores including, but not limited to Bamboo Garden and Yogi S Cafe, the toilet room does not provide appropriate grab bars at the water closets. This is in violation of section 4.22.4 of the ADAAG.
- i. For one or more stores including, but not limited to Bamboo Garden and Yogi S Cafe, the pipes underneath the lavatory inside the toilet rooms are exposed. This is in violation of section 4.22.6 of the ADAAG.
- j. For one or more stores including, but not limited to Bamboo Garden, the toilet paper, inside the toilet room, is out of reach to a person using a wheelchair. This is in violation of section 4.16.6 of the ADAAG.
- k. For one or more stores including, but not limited to Bamboo Garden and Yogi S Cafe, the

mirror inside the toilet room is too high. This is in violation of section 4.22.6 of the ADAAG.

- l. For one or more stores including, but not limited to Yogi S Cafe, the lavatory inside the toilet room has faucets that require tight grasping and twisting of the wrist to operate. This is in violation of section 4.22.6 of the ADAAG.
  - m. For one or more stores including, but not limited to Bamboo Garden and Yogi S Cafe, the receptacles are out of reach to a person using a wheelchair. This is in violation of section 4.27.3 of the ADAAG.
  - n. For one or more stores including, but not limited to Bamboo Garden and Yogi S Cafe, the toilet room door hardware requires tight grasping and twisting of the wrist to operate. This is in violation of section 4.22.4 of the ADAAG.
12. The discriminatory violations described in paragraph 11 are not an exclusive list of the Defendants's ADA violations. Plaintiffs require the inspection of the Defendants's place of public accommodation in order to photograph and measure all of the discriminatory acts violating the ADA and all of the barriers to access. The individual Plaintiff, the members of the Plaintiff group, and all other individuals similarly situated, have been denied access to, and have been denied the benefits of services, programs and activities of the Defendants's buildings and its facilities, and have otherwise been discriminated against and damaged by the Defendants because of the Defendants's ADA violations, as set forth above. The individual Plaintiff, the members of the Plaintiff group and all others similarly situated will continue to suffer such discrimination, injury and damage without the immediate relief provided by the ADA as requested herein. In order to remedy this discriminatory situation, the Plaintiff requires an inspection of the Defendants's place of public accommodation in order to determine all of the areas of non-compliance with the Americans with Disabilities Act.
13. Defendants has discriminated against the individual and corporate Plaintiffs by denying them

access to full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations of its place of public accommodation or commercial facility in violation of 42 U.S.C. § 12181 et seq. and 28 CFR 36.302 et seq. Furthermore, the Defendants continues to discriminate against the Plaintiff, and all those similarly situated by failing to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities; and by failing to take such efforts that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.

14. Plaintiffs are without adequate remedy at law and are suffering irreparable harm. Plaintiffs have retained the undersigned counsel and are entitled to recover attorney's fees, costs and litigation expenses from the Defendants pursuant to 42 U.S.C. § 12205 and 28 CFR 36.505.
15. Defendants is required to remove the existing architectural barriers to the physically disabled when such removal is readily achievable for its place of public accommodation that has existed prior to January 26, 1992, 28 CFR 36.304(a); in the alternative, if there has been an alteration to Defendants's place of public accommodation since January 26, 1992, then the Defendants is required to ensure to the maximum extent feasible, that the altered portions of the facility are readily accessible to and useable by individuals with disabilities, including individuals who use wheelchairs, 28 CFR 36.402; and finally, if the Defendants's facility is one which was designed and constructed for first occupancy subsequent to January 26, 1993, as defined in 28 CFR 36.401, then the Defendants's facility must be readily accessible to and

useable by individuals with disabilities as defined by the ADA.

16. Notice to Defendants is not required as a result of the Defendants's failure to cure the violations by January 26, 1992 (or January 26, 1993, if Defendants has 10 or fewer employees and gross receipts of \$500,000 or less). All other conditions precedent have been met by Plaintiffs or waived by the Defendants.
17. Pursuant to 42 U.S.C. § 12188, this Court is provided with authority to grant Plaintiffs Injunctive Relief, including an order to require the Defendants to alter Prel Plaza to make those facilities readily accessible and useable to the Plaintiffs and all other persons with disabilities as defined by the ADA; or by closing the facility until such time as the Defendants cures its violations of the ADA.

**WHEREFORE**, Plaintiffs respectfully request:

- a. The Court issue a Declaratory Judgment that determines that the Defendants at the commencement of the subject lawsuit is in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq.
- b. Injunctive relief against the Defendants including an order to make all readily achievable alterations to the facility; or to make such facility readily accessible to and usable by individuals with disabilities to the extent required by the ADA; and to require the Defendants to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities; and by failing to take such steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise

treated differently than other individuals because of the absence of auxiliary aids and services.

- c. An award of attorney's fees, costs and litigation expenses pursuant to 42 U.S.C. § 12205.
- d. Such other relief as the Court deems just and proper, and/or is allowable under Title III of the Americans with Disabilities Act.

Respectfully Submitted,

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By: /s/Lawrence A. Fuller  
Lawrence A. Fuller, Esquire

Date: May 11, 2007

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via e-mail and U.S. Mail on this 11th day of May, 2007 to:

Aba Heiman  
Jerry Heiman  
c/o Aba Heiman, Esq.  
1253 Tyler Avenue  
East Meadow, NY 11554  
[aheimann@fbrlaw.com](mailto:aheimann@fbrlaw.com)

By: /s/Lawrence A. Fuller

**Exhibit “2”**



## Select A Case

**This person is a party in 2 cases.**

1:06-cv-14369-VM Access 4 All Inc. et al v. New Latham Hotel Corp. filed 12/13/06 closed 06/15/07

1:07-cv-08302-DC Access 4 All Inc. et al v. Iroquois Hotel, L.L.C. filed 09/24/07 closed 05/30/08

PACER Service Center			
Transaction Receipt			
07/31/2008 10:34:25			
PACER Login:	*****	Client Code:	
Description:	Search	Search Criteria:	Last Name: access 4 all
Billable Pages:	1	Cost:	0.08

## Select A Case


**This person is a party in 3 cases.**

1:04-cv-03657- Access 4 All, Inc, et al v. Manhattan  
KMK Hospitality Associates filed 05/13/04 closed 10/14/04

1:04-cv-07180- Access 4 All, Inc, et al v. Sheffield Hotel  
VM Associates, L.P. filed 09/09/04 closed 11/17/04

1:06-cv-14372- Access 4 All, Inc, et al v. Blue Hill Plaza Inn,  
KNF Inc. filed 12/13/06 closed 05/25/07

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<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
07/31/2008 10:34:43			
<b>PACER Login:</b>		<b>Client Code:</b>	
<b>Description:</b>	Search	<b>Search Criteria:</b>	Last Name: access 4 all
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.08

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## Select A Case

**This person is a party in 55 cases.**

1:03-cv-05027-RLC	Access 4 All, Inc., et al v. Wellington Hotel Co.	filed 07/07/03	closed 03/31/06
1:03-cv-06263-CBM	Access 4 All, Inc., et al v. Times Square Hotel	filed 08/20/03	closed 03/11/04
1:03-cv-06264-RLC	Access 4 All, Inc., et al v. Hilton Hotels Corp.	filed 08/20/03	closed 03/02/04
1:04-cv-01160-PKC-FM	Access 4 All, Inc. et al v. GCP Realty, L.L.C. et al	filed 02/13/04	closed 01/11/05
1:04-cv-01535-PKC-FM	Access 4 All, Inc. et al v. Laguardia Associates, L.P.	filed 02/23/04	closed 08/03/04
1:04-cv-01536-PKC-FM	Access 4 All, Inc. et al v. Yassky Wyndham Partnership	filed 02/23/04	closed 09/13/04
1:04-cv-01537-PKC-FM	Access 4 All, Inc. v. 111 East 56th Street, Inc.	filed 02/23/04	closed 09/03/04
1:04-cv-01538-PKC-FM	Access 4 All, Inc. et al v. GCP Realty, L.L.C. et al	filed 02/23/04	closed 08/04/04
1:04-cv-03258-FM	Access 4 All, Inc. et al v. Milford Plaza Associates	filed 04/29/04	closed 09/27/04
1:04-cv-03659-RJH	Access 4 All, Inc. v. National Railroad Passenger Corp	filed 05/13/04	closed 01/07/05
1:04-cv-03681-BSJ-GWG	Access 4 All, Inc. et al v. G.W.K. Management Corp, et al	filed 05/14/04	closed 11/24/04

1:04-cv-03682- NRB	Access 4 All, Inc. et al v. Edison Management Co., LLC	filed 05/14/04	closed 09/21/04
1:04-cv-03683- KMW-DCF	Access 4 All, Inc. et al v. Thirty East 30th Street, LLC	filed 05/14/04	closed 01/06/05
1:04-cv-03684- TPG	Access 4 All, Inc. et al v. Becker-Paramount Fee, LLC	filed 05/14/04	closed 03/07/05
1:04-cv-06620- GBD-FM	Access 4 All, Inc. et al v. Jaseme Associates, LLC	filed 08/16/04	closed 03/01/05
1:04-cv-07174- SAS-JCF	Access 4 All, Inc. et al v. Park Lane Hotel, Inc.	filed 09/09/04	closed 06/22/05
1:04-cv-07175- KMK	Access 4 All, Inc. et al v. 222 East 39th Street Co.	filed 09/09/04	closed 02/09/05
1:04-cv-07176- LAP	Access 4 All, Inc. et al v. Carnegie Real Estate, LLC	filed 09/09/04	closed 02/23/06
1:04-cv-07177- LAK	Access 4 All, Inc. et al v. 401 Hotel Reit, LLC	filed 09/09/04	closed 12/17/04
1:04-cv-07178- PKC-GWG	Access 4 All, Inc. et al v. Milburn Hotel, LLC	filed 09/09/04	closed 05/20/05
1:04-cv-07179- GEL	Access 4 All, Inc. et al v. Bryant Associates et al	filed 09/09/04	closed 05/30/06
1:04-cv-07455- BSJ-JCF	Access 4 All, Inc. et al v. Herald Hotel Associates, L.P.	filed 09/21/04	closed 07/18/05
1:04-cv-07496-HB	Access 4 All, Inc. et al v. DP & DP Associates	filed 09/22/04	closed 04/29/05
1:04-cv-07497- RJS-HBP	Access 4 All, Inc. et al v. Trump International Hotel & Tower et al	filed 09/22/04	closed 12/07/07

1:04-cv-07498-LAK-KNF	Access 4 All, Inc. et al v. 70-02178 Broadway, LLC	filed 09/22/04 closed 04/26/05
1:04-cv-07499-LBS	Access 4 All, Inc. et al v. Starhotels International Corporation	filed 09/22/04 closed 01/05/05
1:04-cv-07674-SHS	Access 4 All, Inc. et al v. Ali Baba Hotel Corp.	filed 09/28/04 closed 08/03/05
1:04-cv-07806-RJH	Access 4 All, Inc. et al v. Cornwall Hotel Associates, LLC	filed 10/01/04 closed 01/26/06
1:04-cv-08823-NRB	Access 4 All, Inc. et al v. Bre/Swiss, LLC	filed 11/08/04 closed 04/29/05
1:05-cv-00017-LAP	Access 4 All, Inc. v. New York Hotel Management Company, Inc.,	filed 01/04/05 closed 08/04/05
1:05-cv-03783-PKC	Access 4 All, Inc. et al v. CTF Westchester Hotel, LLC	filed 04/13/05 closed 11/03/05
1:05-cv-04024-GBD	Access 4 All, Inc. et al v. Lophijo Realty Corp	filed 04/21/05 closed 01/05/06
1:05-cv-04025-GEL-FM	Access 4 All, Inc. et al v. Golden Gate Motor Inn, Inc.	filed 04/21/05 closed 03/29/06
1:05-cv-09553-KMK	Access 4 All, Inc. et al v. Dilstan Realty Corporation	filed 11/14/05 closed 02/16/06
1:05-cv-09703-GWG	Access 4 All, Inc. et al v. Brooks Shopping Centers LLC	filed 11/17/05 closed 06/21/06
1:05-cv-09815-SHS	Access 4 All, Inc. et al v. The Sherry-Netherland, Inc	filed 11/21/05 closed 03/21/06
1:06-cv-00415-RJH	Access 4 All, Inc. et al v. Plaza East Hotel, L.L.C.	filed 01/20/06 closed 07/12/06

1:06-cv-01634- DCF	Access 4 All, Inc. et al v. Stanford New York LLC	filed 03/02/06	closed 08/16/06
1:06-cv-02790- JGK	Access 4 All, Inc. et al v. Calvary Baptist Church et al	filed 04/11/06	closed 08/08/06
1:06-cv-03034- PKC-AJP	Access 4 All, Inc. et al v. Philips Bryant Park, LLC	filed 04/20/06	closed 09/25/06
1:06-cv-04020- LTS	Access 4 All, Inc. et al v. WW JFK, Inc.	filed 05/26/06	closed 06/09/06
1:06-cv-04426- PAC	Access 4 All, Inc. et al v. Wolcott Hotel, Co.	filed 06/13/06	closed 10/30/06
1:06-cv-04677- SAS	Access 4 All, Inc. et al v. Affinia Management Company, L.L.C.	filed 06/19/06	closed 12/22/06
1:06-cv-04680- KMK	Access 4 All, Inc. et al v. Historic Inns of New York City, LLC	filed 06/19/06	closed 01/24/07
1:06-cv-05745-HB	Access 4 All, Inc. et al v. HMC Capital Resources LLC	filed 07/31/06	closed 12/27/06
1:06-cv-05746- GBD	Access 4 All, Inc. et al v. Rosbrock LLC.	filed 07/31/06	closed 02/05/07
1:06-cv-05747- VM-HBP	Access 4 All, Inc. et al v. Alphonse Hotel Corporation	filed 07/31/06	closed 09/12/07
1:06-cv-08289- MGC	Access 4 All, Inc. et al v. Motel in the Sky, Inc.	filed 10/11/06	closed 04/16/07
1:06-cv-13735- GBD	Access 4 All, Inc. et al v. Bruckner Plaza Associates L.P.	filed 12/05/06	closed 06/14/07
1:06-cv-13736-	Nelson M. Stern v. G&T Consulting	filed 12/05/06	closed 06/26/08

DCF Company LLC.

1:06-cv-14371- Access 4 All, Inc. et al v. Johnson Kirchner Holdings LLC filed 12/12/06 closed 04/23/07  
LAK

1:07-cv-00253- Access 4 All, Inc. et al v. The Downtown L.L.C. filed 01/11/07 closed 10/01/07  
RMB-RLE

1:07-cv-01112- Access 4 All, Inc. et al v. JLJ Management, Co. filed 02/13/07 closed 11/01/07  
LTS

1:07-cv-02923- Access 4 All, Inc. v. Stern et al filed 04/12/07  
LBS-FM

7:05-cv-09814- Access 4 All, Inc. et al v. Euro-American Lodging Corporation filed 11/21/05 closed 10/31/06  
SCR

PACER Service Center			
Transaction Receipt			
07/31/2008 10:34:55			
PACER Login:		Client Code:	
Description:	Search	Search Criteria:	Last Name: access 4 all
Billable Pages:	3	Cost:	0.24

**Exhibit “3”**



# U.S. Party/Case Index

## All Types Name Search Results

79 Total Party matches for selection STERN, NELSON M. for ALL COURTS

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Selections 1 through 54 (Page 1)

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### Civil Cases

	Name	Court	Case No.	Filed	NOS	Closed
1	STERN, NELSON M.	ctdce	3:2005cv00850	06/13/2006	443	06/26/2006
2	STERN, NELSON M.	ctdce	3:2005cv00850	06/13/2006	443	06/26/2006
3	STERN, NELSON M.	ctdce	3:2004cv00898	06/01/2004	443	08/31/2004
4	STERN, NELSON M.	ctdce	3:2004cv00898	06/01/2004	443	08/31/2004
5	STERN, NELSON M.	nysdce	1:1998cv01036	02/13/1998	365	09/16/1998
6	STERN, NELSON M.	nysdce	1:2007cv01112	02/13/2007	446	11/01/2007
7	STERN, NELSON M.	ctdce	3:2004cv01176	07/16/2004	443	02/04/2005
8	STERN, NELSON M.	ctdce	3:2004cv01176	07/16/2004	443	02/04/2005
9	STERN, NELSON M.	ctdce	3:2006cv01348	08/30/2006	443	12/14/2006
10	STERN, NELSON M.	ctdce	3:2006cv01348	08/30/2006	443	12/14/2006
11	STERN, NELSON M.	nyedce	1:2004cv01369	04/02/2004	890	10/06/2004
12	STERN, NELSON M.	nyedce	2:2008cv01376	04/04/2008	446	
13	STERN, NELSON M.	nysdce	1:2004cv01559	02/24/2004	443	08/17/2004
14	STERN, NELSON M.	ctdce	3:2005cv01567	10/11/2005	443	04/05/2006
15	STERN, NELSON M.	nysdce	1:2006cv01634	03/02/2006	446	08/16/2006
16	STERN, NELSON M.	nysdce	1:2004cv01703	03/02/2004	443	02/10/2005
17	STERN, NELSON M.	nysdce	1:2003cv01737	03/13/2003	890	06/02/2003
18	STERN, NELSON M.	nyndce	1:1995cv01861	12/29/1995	790	08/18/1997
19	STERN, NELSON M.	nyedce	1:2005cv02051	04/28/2005	443	03/16/2006
20	STERN, NELSON M.	nysdce	1:2003cv02164	03/27/2003	890	06/30/2003
21	STERN, NELSON M.	nysdce	1:2004cv02277	03/22/2004	443	07/29/2004
22	STERN, NELSON M.	nysdce	1:2004cv02295	03/23/2004	443	11/08/2004
23	STERN, NELSON M.	nysdce	1:2004cv02296	03/23/2004	443	07/16/2004
24	STERN, NELSON M.	nysdce	1:2004cv02501	03/31/2004	443	06/30/2004
25	STERN, NELSON M.	nysdce	1:2004cv02769	04/12/2004	442	12/08/2004
26	STERN, NELSON M.	nysdce	1:2004cv02770	04/12/2004	443	02/07/2005
27	STERN, NELSON M.	nysdce	1:2000cv02909	04/17/2000	440	07/09/2001

28 STERN, NELSON M. nysdce 1:2007cv02923 07/11/2008 446  
29 STERN, NELSON M. nysdce 1:2005cv03079 03/22/2005 443 10/27/2005  
30 STERN, NELSON M. nyedce 1:2004cv03099 07/22/2004 890 05/18/2006  
31 STERN, NELSON M. nysdce 1:2006cv03247 04/27/2006 443 07/13/2006  
32 STERN, NELSON M. njdce 2:2005cv03276 06/29/2005 446 04/27/2007  
33 STERN, NELSON M. nysdce 1:2004cv03302 04/30/2004 443 02/16/2005  
34 STERN, NELSON M. nysdce 1:2004cv03578 05/11/2004 443 07/22/2004  
35 STERN, NELSON M. nysdce 1:2005cv03783 04/13/2005 443 11/03/2005  
36 STERN, NELSON M. candce 3:1998cv03807 10/01/1998 410 05/12/1999  
37 STERN, NELSON M. nysdce 7:2003cv03824 05/28/2003 440 10/30/2003  
38 STERN, NELSON M. nysdce 1:2004cv03984 05/26/2004 443 09/23/2004  
39 STERN, NELSON M. nysdce 1:2005cv04024 04/21/2005 443 01/05/2006  
40 STERN, NELSON M. nysdce 1:2005cv04025 04/21/2005 443 03/29/2006  
41 STERN, NELSON M. nysdce 1:2005cv04092 04/25/2005 443 07/13/2005  
42 STERN, NELSON M. nysdce 1:2004cv04101 06/01/2004 443 10/05/2004  
43 STERN, NELSON M. nyedce 1:2004cv04247 10/01/2004 890 05/18/2005  
44 STERN, NELSON M. nysdce 1:2006cv04426 06/13/2006 446 10/30/2006  
45 STERN, NELSON M. nyedce 2:2007cv04557 10/31/2007 446 06/13/2008  
46 STERN, NELSON M. nysdce 1:2004cv04621 06/21/2004 442 10/19/2004  
47 STERN, NELSON M. nysdce 1:2004cv04622 06/21/2004 440 12/21/2004  
48 STERN, NELSON M. nysdce 1:2006cv04677 06/19/2006 446 12/22/2006  
49 STERN, NELSON M. nysdce 1:2006cv04680 06/19/2006 446 01/24/2007  
50 STERN, NELSON M. nyedce 1:2006cv05045 09/19/2006 445 05/16/2007  
51 STERN, NELSON M. nyedce 2:2006cv05487 10/11/2006 446  
52 STERN, NELSON M. nysdce 1:2006cv05745 07/31/2006 446 12/27/2006  
53 STERN, NELSON M. nysdce 1:2006cv05746 07/31/2006 446 02/05/2007  
54 STERN, NELSON M. nysdce 1:2006cv05747 07/31/2006 446 09/12/2007

➡ Next 25

PACER Service Center			
Transaction Receipt			
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PACER Login:		Client Code:	
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**Reports:** Court Code List | Date Range | Courts not on Index | Statistical Reports

# U.S. Party/Case Index

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79 Total Party matches for selection STERN, NELSON M. for ALL COURTS

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Selections 55 through 79 (Page 2)

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### Civil Cases

Name	Court	Case No.	Filed	NOS	Closed
55 STERN, NELSON M.	nysdce	1:2006cv05747	07/31/2006	446	09/12/2007
56 STERN, NELSON M.	nysdce	1:2004cv05784	07/26/2004	443	10/27/2004
57 STERN, NELSON M.	nysdce	1:2004cv05845	07/28/2004	443	09/14/2004
58 STERN, NELSON M.	nyedce	1:2003cv05847	11/20/2003	890	02/26/2004
59 STERN, NELSON M.	nysdce	1:2005cv06347	07/12/2005	440	10/03/2005
60 STERN, NELSON M.	nysdce	1:2005cv06590	07/21/2005	443	05/11/2006
61 STERN, NELSON M.	nysdce	1:2005cv06649	07/25/2005	443	04/20/2006
62 STERN, NELSON M.	nysdce	1:2004cv07053	09/02/2004	443	04/18/2005
63 STERN, NELSON M.	nysdce	1:2004cv07054	09/02/2004	442	04/20/2005
64 STERN, NELSON M.	nysdce	1:2004cv07055	09/02/2004	443	04/21/2006
65 STERN, NELSON M.	nysdce	1:2003cv07212	09/15/2003	443	04/30/2004
66 STERN, NELSON M.	nysdce	1:2004cv07455	09/21/2004	443	07/18/2005
67 STERN, NELSON M.	nysdce	1:2004cv07806	10/01/2004	443	01/26/2006
68 STERN, NELSON M.	nysdce	1:2004cv08056	10/13/2004	443	11/18/2004
69 STERN, NELSON M.	nysdce	1:2006cv08150	11/27/2006	443	05/21/2007
70 STERN, NELSON M.	nysdce	1:2006cv08289	10/11/2006	446	04/16/2007
71 STERN, NELSON M.	nysdce	1:2004cv09024	11/16/2004	443	01/10/2005
72 STERN, NELSON M.	nysdce	1:2003cv09473	11/26/2003	443	03/24/2004
73 STERN, NELSON M.	nysdce	1:2005cv09553	11/14/2005	446	02/16/2006
74 STERN, NELSON M.	nysdce	1:2005cv09703	11/17/2005	446	06/21/2006
75 STERN, NELSON M.	nysdce	1:2003cv10063	12/19/2003	443	09/02/2004
76 STERN, NELSON M.	nysdce	1:2006cv13735	12/05/2006	446	06/14/2007
77 STERN, NELSON M.	nysdce	1:2006cv13736	12/05/2006	446	06/26/2008
78 STERN, NELSON M.	nysdce	1:2006cv14214	12/07/2006	440	12/14/2006
79 STERN, NELSON M.	nysdce	1:2006cv14369	12/13/2006	446	06/15/2007

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## Select A Case

**This person is a party in 49 cases.**

1:04-cv-01559-DLC	Access of All, Inc. et al v. New York One and Two Cinemas et al	filed 02/24/04	closed 08/17/04
1:04-cv-01703-RMB-RLE	A.D.A. Access Today, Inc. et al v. Plaza Athenee Hotel Company Limited	filed 03/02/04	closed 02/10/05
1:04-cv-02277-VM	Accessibility for All, Inc. et al v. Morgan Hotel et al	filed 03/22/04	closed 07/29/04
1:04-cv-02295-DAB	Accessibility for All, Inc. et al v. Bedford Hotel et al	filed 03/23/04	closed 11/08/04
1:04-cv-02296-HB	Accessibility for All, Inc. et al v. Mansfield Hotel et al	filed 03/23/04	closed 07/16/04
1:04-cv-02501-WHP	Accessibility for All, Inc. et al v. BEST WESTERN SEAPORT INN et al	filed 03/31/04	closed 06/30/04
1:04-cv-02769-KMK	Accessibility for All, Inc. et al v. Newton Hotel Corporation et al	filed 04/12/04	closed 12/08/04
1:04-cv-02770-WHP	Accessibility for All, Inc. et al v. Comfort Inn Central Park West et al	filed 04/12/04	closed 02/07/05
1:04-cv-03302-RCC	Accessibility for All, Inc. et al v. Quality Inn et al	filed 04/30/04	closed 02/16/05
1:04-cv-03578-AKH	Accessibilty For All, Inc. et al v. Red Roof Inn et al	filed 05/11/04	closed 07/22/04
1:04-cv-03984-LTS	Accessibility for All, Inc. et al v. Comfort Inn Manhattan Hotel et al	filed 05/26/04	closed 09/23/04

1:04-cv-04101-RCC	Accessibility for All, Inc. et al v. Best Western Hotel et al	filed 06/01/04	closed 10/05/04
1:04-cv-04621-NRB	Accessibility for All, Inc. et al v. Hotel Avalon et al	filed 06/21/04	closed 10/19/04
1:04-cv-04622-RJH	Accessibility for All, Inc. et al v. Loews 72nd Street Theater	filed 06/21/04	closed 12/21/04
1:04-cv-05784-JSR	Accessibility for All, Inc. et al v. The Allerton Hotel et al	filed 07/26/04	closed 10/27/04
1:04-cv-05845-RMB	Accessibility for All, Inc. et al v. Marriot Execustay et al	filed 07/28/04	closed 09/14/04
1:04-cv-07053-NRB	Accessibility for All, Inc. et al v. Hotel Metro et al	filed 09/02/04	closed 04/18/05
1:04-cv-07054-WHP	Accessibility for All, Inc. et al v. Carlyle Hotel et al	filed 09/02/04	closed 04/20/05
1:04-cv-07055-BSJ	Accessibility for All, Inc. et al v. Ameritania Hotel et al	filed 09/02/04	closed 04/21/06
1:04-cv-07455-BSJ-JCF	Access 4 All, Inc. et al v. Herald Hotel Associates, L.P.	filed 09/21/04	closed 07/18/05
1:04-cv-07806-RJH	Access 4 All, Inc. et al v. Cornwall Hotel Associates, LLC	filed 10/01/04	closed 01/26/06
1:04-cv-08056-LAK	Accessibility for All, Inc. et al v. Buckingham Hotel et al	filed 10/13/04	closed 11/18/04
1:04-cv-09024-RMB	Accessibility for All, Inc. et al v. Travel Inn et al	filed 11/16/04	closed 01/10/05
1:05-cv-03079-LAP	Accessibility for All, Inc. et al v. Comfort Inn Midtown et al	filed 03/22/05	closed 10/27/05

1:05-cv-03783- PKC	Access 4 All, Inc. et al v. CTF Westchester Hotel, LLC	filed 04/13/05	closed 11/03/05
1:05-cv-04024- GBD	Access 4 All, Inc. et al v. Lophijo Realty Corp	filed 04/21/05	closed 01/05/06
1:05-cv-04025- GEL-FM	Access 4 All, Inc. et al v. Golden Gate Motor Inn, Inc.	filed 04/21/05	closed 03/29/06
1:05-cv-04092- CBM	Accessibility for All, Inc. et al v. Quality Hotel Times Square et al	filed 04/25/05	closed 07/13/05
1:05-cv-06347- HB	Accessibility for All, Inc. et al v. Loews Cineplex Lincoln Square et al	filed 07/12/05	closed 10/03/05
1:05-cv-06590- AKH	ADA Access Today, Inc. et al v. Starlex, LLC	filed 07/21/05	closed 05/11/06
1:05-cv-06649- GEL	Accessibility for All, Inc. et al v. The Helmsley Carlton Hotel et al	filed 07/25/05	closed 04/20/06
1:05-cv-09553- KMK	Access 4 All, Inc. et al v. Dilstan Realty Corporation	filed 11/14/05	closed 02/16/06
1:05-cv-09703- GWG	Access 4 All, Inc. et al v. Brooks Shopping Centers LLC	filed 11/17/05	closed 06/21/06
1:06-cv-01634- DCF	Access 4 All, Inc. et al v. Stanford New York LLC	filed 03/02/06	closed 08/16/06
1:06-cv-03247- VM	Accessibility for All, Inc. et al v. Ramada Hotel et al	filed 04/27/06	closed 07/13/06
1:06-cv-04426- PAC	Access 4 All, Inc. et al v. Wolcott Hotel, Co.	filed 06/13/06	closed 10/30/06
1:06-cv-04677- SAS	Access 4 All, Inc. et al v. Affinia Management Company, L.L.C.	filed 06/19/06	closed 12/22/06



1:06-cv-04680-KMK	Access 4 All, Inc. et al v. Historic Inns of New York City, LLC	filed 06/19/06 closed 01/24/07
1:06-cv-05745-HB	Access 4 All, Inc. et al v. HMC Capital Resources LLC	filed 07/31/06 closed 12/27/06
1:06-cv-05746-GBD	Access 4 All, Inc. et al v. Rosbrock LLC.	filed 07/31/06 closed 02/05/07
1:06-cv-05747-VM-HBP	Access 4 All, Inc. et al v. Alphonse Hotel Corporation	filed 07/31/06 closed 09/12/07
1:06-cv-08150-GEL	Access for All, Inc. et al v. IMICO 86 Developer, LLC et al	filed 10/05/06 closed 05/21/07
1:06-cv-08289-MGC	Access 4 All, Inc. et al v. Motel in the Sky, Inc.	filed 10/11/06 closed 04/16/07
1:06-cv-13735-GBD	Access 4 All, Inc. et al v. Bruckner Plaza Associates L.P.	filed 12/05/06 closed 06/14/07
1:06-cv-13736-DCF	Nelson M. Stern v. G&T Consulting Company LLC.	filed 12/05/06 closed 06/26/08
1:06-cv-14214-PAC	Stern v. Kreisel Co., Inc. et al	filed 12/07/06 closed 12/14/06
1:06-cv-14369-VM	Access 4 All Inc. et al v. New Latham Hotel Corp.	filed 12/13/06 closed 06/15/07
1:07-cv-01112-LTS	Access 4 All, Inc. et al v. JLJ Management, Co.	filed 02/13/07 closed 11/01/07
1:07-cv-02923-LBS-FM	Access 4 All, Inc. v. Stern et al	filed 04/12/07

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Transaction Receipt			
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PACER Login:		Client Code:	Ulster Heights
Description:	Search	Search Criteria:	Last Name: Stern First Name: Nelson Middle Name: m.
Billable Pages:	3	Cost:	0.24



**Exhibit “4”**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 01-CIV-14300-MIDDLEBROOKS/LYNCH**

**ACCESS FOR AMERICA, INC.  
a Florida not-for-profit corporation,  
and JOHN McNEILLY, an individual**

**vs.**

**SPEEDWAY SUPERAMERICA, LLC,  
a foreign limited liability company**

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**SANCTIONS ORDER**

THIS CAUSE comes before the Court upon the Sanctions Hearing heard before the undersigned on March 10, 2003. The Court previously determined that sanctions were warranted due to Plaintiffs' counsel, Mr. Lawrence A. Fuller's ("Fuller") failure to conduct a reasonable pre-suit inquiry. The Court's numerous prior orders regarding this matter make a full recitation of the facts unnecessary. However, the Court briefly recites the relevant pieces of this case's history as follows.

Plaintiffs Access For America ("Access") and John McNeilly ("McNeilly") filed suit in October of 2001. The Complaint alleged that McNeilly was a member of the Access, the organizational plaintiff, that he suffered from quadriplegia, that he had visited the place of public accommodation owned by Defendant Super Speedway ("Speedway") in the past, and had been denied services due to his disability, and that he planned on returning to Speedway in the future.

Despite his quadriplegia, McNeilly walked into his deposition on April 16, 2002.<sup>1</sup>

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<sup>1</sup> The deposition had been previously scheduled to occur at an earlier date, but had been reset allegedly due to McNeilly's hospitalization and medical condition.

71  
[Signature]